

IV. REMARKS

Status of the Claims

Claims 1,5-7,13, 16, and 17 are amended. Claims 3,8-10,12, and 13 are canceled. New claim 18 is added. Claims 1,2,4-7,11,13,14,16-18 are presented for consideration.

Summary of the Office Action

Claims 1-5,9 and 10 stand rejected under 35USC103(a) on the basis of the cited reference Felix, et al, U.S. Patent No. 6,233,231 in view of the teaching of Warren, et al, U.S. Patent No. 5,946,344. Claims 6-8 and 11-14 stand rejected under 35USC102(e) based on the cited reference Felix, et al. Claims 15-17 stand rejected under 35USC103(a) based on the cited reference Felix, et al. The Examiner is respectfully requested to reconsider his rejections in view of the following remarks.

A proposed correction to figure 3 is attached for the Examiner's approval.

The Invention

The present invention is designed to provide a significant reduction in PN code acquisition time over conventional PN code acquisition. In accordance with the system of this application a signal is received and correlated to a particular code sequence having a first code rate (chipping rate). After the code is received and synchronized, the code generators of the transmitter and receiver are changed to a code sequence having a higher code rate. The subject matter of the cited reference Felix refers to rates of data transmission and is a proposed solution to a significantly different problem.

Discussion of the Cited References

The disclosure of the cited reference Felix et al is summarized in column 2, lines 20 to 38 of Felix, as follows:

"To address the need for a communication system that does not occupy dedicated data channels for lengthy periods of time, and does not excessively contribute to overall system interference, a method and apparatus for data transmission within a communication system is provided. During operation remote units having large amounts of data to transmit will be dynamically assigned Orthogonal Variable Spreading Factor (OVSF) codes corresponding to higher data rates and remote units with lower amounts of data to be transmitted will be assigned OVSF codes corresponding to lower data rates. Additionally, in an alternate embodiment of the present invention, once system interference becomes greater than a predetermined threshold, the data rate between the base station and remote units in communication with the base station is reduced. In the alternate embodiment of the present invention the reduction of the data rate between the base station and remote unit occurs by changing the current OVSF codes utilized by both the remote units and the base station."

It is clear from the above that the reference Felix is attacking a different problem, namely increasing data rates. The purpose of the system of this invention, however, is to facilitate the code sequence acquisition.

There is nothing in the reference Felix that refers to changing the code rates to speed code acquisition.

The Issue of Anticipation

It is well settled that a claim is anticipated, "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (See CHISOLM, Federal Circuit Guide, Pg. 1221).

"...it must be shown that the reference contains all of the elements of the claims apart from irrelevant or merely extraneous variations, and the elements are arranged in the

same way to achieve the same result which is asserted to be an inventive function..." 454 U.S. 1129 (1981)

The elements of the claim and their function and purpose within the claim must be reviewed in a manner similar to an infringement analysis. If the device described in the cited reference would not infringe if it was later, it will not anticipate if the reference is earlier.

Applying this standard to the device of the reference Felix, et al, it becomes clear that the system of Felix is missing significant elements of independent claims 1,6, and 13. There is no provision in the system of Felix for changing to a code sequence having a higher code rate.

Claim 1 states:

"changing, at said first and second transceivers, in response to the step of correlating the signal with the first code sequence, to a second code sequence having a second rate that is higher than said first rate."

Equivalent language also is contained in claim 6 and 13. Since these elements form no part of the system of Felix, et al, there would be no infringement, if Felix was later, therefore, the cited reference does not support the rejection by the Examiner based on anticipation.

The rejections based on obviousness also prove to be unsupported in view of the above described deficiencies of the cited reference Felix. The teaching of Warren adds nothing to the art cited by the Examiner to remedy the deficiencies of Felix, but teaches away from the basic elements of this invention.

At column 2, lines 29-34 of Warren, the basic concept of Warren is described as follows:

"Thus, it would be desirable to provide a direct sequence spread spectrum communication system having a fixed chipping rate that achieves the jamming immunity of a low data rate system while also having the data throughput of a high data rate system"

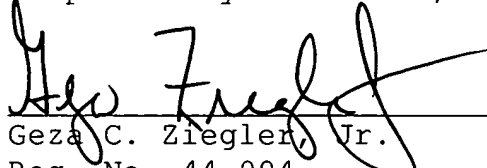
The reference Warren, therefore, teaches the use of a fixed chipping rate, which is opposed to the changing chipping rates of the claimed subject matter.

The above arguments are equally applicable to the rejected dependent claims 2,4,5,7,11,14-18.

In view of the remarks stated above, Applicant submits that all of the claims under consideration contain patentable subject matter and favorable action by the Examiner is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in the amount of \$950.00 is enclosed for a three month extension of time. The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


Geza C. Ziegler, Jr.
Reg. No. 44,004

2 MARCH 2004
Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512